

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

WILLIAM MCDOWELL,

Plaintiff,

v.

UNKNOWN FEDERAL AGENT, et al.,

Defendants.

CASE NO. 3:24-cv-05768-KKE-DWC

ORDER TO SHOW CAUSE

This prisoner civil rights action has been referred to United States Magistrate Judge David W. Christel. Before the Court is Plaintiff William McDowell's Motion for Voluntary Dismissal and Request for Refund of Filing Fees. Dkt. 10. For the reasons that follow, Plaintiff must show cause regarding his intent to dismiss or pursue this action not later than January 6, 2025.

On September 12, 2024, Plaintiff, proceeding *pro se*, initiated this action by filing an application to proceed *in forma pauperis* ("IFP"), Dkts. 1, 4, and a civil rights complaint pursuant to *Bivens v. Six Unknown Named Agents of Fed. Bureau of Narcotics*, 403 U.S. 388 (1971),<sup>1</sup> Dkts. 1-1, 6. On September 27, 2024, the Court granted Plaintiff's request to proceed

---

<sup>1</sup> Damages actions against federal officials for Constitutional violations must be brought under *Bivens*—the judicially crafted counterpart to § 1983 that is virtually identical except for the replacement of a state actor with a federal actor. *Van Strum v. Lawn*, 940 F.2d 406, 409 (9th Cir. 1991).

1 IFP. Dkt. 5. On the same date, the Court issued an Order declining to serve Plaintiff's complaint  
2 and directing him to show cause regarding several substantive deficiencies with his *Bivens*  
3 claims. Dkt. 7. Plaintiff requested an extension of time to show cause. Dkt. 8. The Court granted  
4 Plaintiff's request and extended the show cause deadline until November 27, 2024. Dkt. 9.

5 The extended deadline has now expired, and the Court has not received a response to the  
6 September 27, 2024 Show Cause Order from Plaintiff. *See docket*. Instead, on November 26,  
7 2024, Plaintiff moved to voluntarily dismiss this action and requested that he be refunded "any  
8 fees incurred." Dkt. 10.

9 Pursuant to 28 U.S.C. § 1915(a), the Court may authorize the commencement of an  
10 action without the prepayment of fees by granting a prisoner-plaintiff's request for IFP status.  
11 When a prisoner is granted IFP status, they are permitted to proceed without paying the filing fee  
12 at the start of the action but are still required to pay the full amount of the filing fee over time.  
13 *See* 28 U.S.C. § 1915(b). Here, Plaintiff signed an Acknowledgement and Authorization form as  
14 a part of his IFP Application that makes clear that he is responsible for payment of the full filing  
15 fee under § 1915. Dkt. 1 at 3.

16 Because Plaintiff has formally requested and been granted IFP status, he will remain  
17 responsible for the filing fee even if he elects not to proceed with this action. This means that the  
18 facility in which Plaintiff is confined will automatically remove funds from his inmate account  
19 when certain criteria are met and will forward those funds to the Court. *See* Dkt. 5 (directing the  
20 institution where Plaintiff is confined to calculate, collect, and forward payments). As Plaintiff  
21 will remain obligated to pay the filing fee whether or not he proceeds with this action, the Court  
22 deems it appropriate to inquire whether Plaintiff indeed wishes to have this action dismissed or  
23 whether he would prefer to proceed.

1 Accordingly, the Court orders Plaintiff accomplish one of the following on or before  
2 January 6, 2025:

- 3 1. Advise the Court that he does, in fact, wish to voluntarily dismiss this action; or
- 4 2. Respond to the Court's September 27, 2024 Show Cause Order (Dkt. 7).

5 Failure to complete one of the above tasks by the stated deadline will be deemed a failure  
6 to properly prosecute and will result in a recommendation this action be dismissed.

7 The Clerk of Court is directed to renote Plaintiff's Motion for Voluntary Dismissal and  
8 Request for Refund of Filing Fees (Dkt. 10) for consideration on January 6, 2025. The Clerk is  
9 further directed to send Plaintiff a copy of the September 27, 2024 Show Cause Order (Dkt. 7)  
10 along with a copy of this Order.

11 Dated this 3rd day of December, 2024.

12 

13 David W. Christel  
14 United States Magistrate Judge